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GOVERNOR'S MESSAGE.

COMMUNICATING CERTAIN DOCUMENTS FROM SOUTH CAROLINA, &c.

To the Legislative Council,
and General Assembly.

On the 12th day of December last, I received from his Excellency James Hamilton, jun., the then Governor of the State of S. Carolina, certain documents, which he requested that I would lay before both branches of the Legislature of this State. They will be found annexed to this communication; and consist of

1. A Report by a Committee of a Convention of the people of South Carolina, recently assembled in that State.

2. An Ordinance passed by that Convention on the 24th November, 1832.

3. An Address to the people of South Carolina, by their Delegates in Convention.

4. An Address to the people of the United States, by the Convention of the people of South Carolina.

Since these documents were received, the Legislature of that State have been in session, and the Message of Governor Hamilton, with the Inaugural Address of his successor, Governor Hayne, have appeared in the public prints. The Legislature also have had under consideration, several bills to carry the Ordinance into effect.

It has been thought proper to communicate to you the whole of these papers, in order that the entire object and conduct of that member of the Union may be exhibited in the light in which their public functionaries have seen fit to present them, to the consideration of the people of the United States and to the world. They show the evils of which they complain—the remedy which they propose—and the terms on which they are willing to forbear their resistance. The evils are, the unconstitutional and oppressive nature and effects of certain laws of the United States—their remedy, the nullification of those laws within the limits of that State; the use of an armed force to sustain that nullification; and a secession from the Union if there be any attempt to enforce their execution. The terms of pacification are, the repeal of the obnoxious laws—a disavowal of the assumed motives for passing them; and the enactment of others, with provisions which they prescribe.

The conduct of South Carolina has been met, by the President of the United States, in the mode suggested by his views of Constitutional principles, and of his duty in the execution of the laws. On the 10th December last, he issued a Proclamation, a copy of which is herewith communicated to you. It denounces the principles and action of that State—declares a fixed resolu-

tion to maintain the supremacy of the laws in all cases; and calls upon the people to obey and support them.

The Governor of South Carolina has issued a Proclamation, in answer to the Proclamation of the President, which bears date on the 20th December last—and is also annexed to the other papers.

It is also understood that both the parties are preparing a military force, which may subserve their respective objects.

Thus has a solemn issue been joined between one of the members of the Union and the General Government, upon the constitutional powers and legislative action of the latter—and there is cause for fearful apprehension, that that issue is to be tried by force, and settled in blood. In its decision the people of New Jersey have a deep and absorbing interest. It is destined to affect not merely their pecuniary interests, and a large amount of their property and industry, but the powers, and perhaps the existence of that Government which was the purchase of their toils, sufferings, and sacrifices in the cause of liberty and independence. It therefore becomes them, and especially their official agents and representatives, deliberately to examine the grounds of this controversy; to observe its present aspect and probable consequences, in a spirit and with a care suited to the magnitude of the interests which are involved. They are parties to it. The Government is the work of their hands—and its authority was conferred and limited by them, in common with others. They are bound to look to its movements, that they may aid in restraining its excesses where it errs, and defend it in the exercise of its legitimate powers. When complaint is made by a sister State of oppression from it, all the dictates of duty and feelings of patriotism unite to demand a patient and respectful examination of the questions which that complaint presents and embraces. If South Carolina be right, we should not hesitate by our representatives, at a proper time and under proper circumstances, to change the laws and remove the injustice. If she is in error, and the laws be constitutional and necessary for the prosperity of the Union, we are equally required to sustain them and protect the Government in its useful and essential authority. And our decision in either case, while it is made with mildness and forbearance far removed from violence, should be followed out in action, with that unfaltering firmness which conscious rectitude of purpose and ardent devotion to our free institutions will not fail to inspire.

It is due to the occasion that the people of this State should avow, to the rest of the Union and especially to South Carolina, the opinions which they entertain in relation to this interesting controversy. Several of the other States have, already, through the Executive and Legislative branches of their governments,

given an exposition of their views. Those of Pennsylvania and New Hampshire having been officially communicated to me, are now transmitted to you.

As this subject is thus recommended to your deliberations, you have a right to expect from the Executive Magistrate, an explicit declaration of his opinions and purposes in regard to it. This will be frankly made—not by labored argument, which more appropriately belongs to other occasions, but by such a statement as will enable the people of this State and their Legislative Representatives, to interpose an appropriate control, if error of action be apprehended by them.

It will be perceived that the form in which S. Carolina has chosen to clothe her proceedings, is thus far without precedent in our history. She has not relied alone upon her regularly constituted authorities, as established by her Constitution, and known to the other members of the Union as the appropriate channels of communication with them; but has resorted, as if to a higher authority, to a convention of the people, directed by the Legislature to be held. In the election of the members of the Convention, a large and intelligent minority did not take an active part, and complaint is made that the principles on which the election was conducted were not correct and proper—but it must be regarded by us as representing the majority, and expressing their wishes and opinions. This majority, by its agency, pronounced the laws of Congress invalid—not binding upon the courts or people, and commanded the Legislature to pass laws to give full effect to their declaration—and the Legislature having found means to reconcile their ordinary legislative powers and action with obedience to their wishes, has yielded to the command and passed the laws required.

It is not easy to understand how the mode of proceeding gives any additional sanction to the resistance of the majority of the people of that State, or changes the nature of the controversy with the General Government. If those who elected and those who composed that meeting were not at liberty individually to disregard their obligations to the laws of the Union, their assembling, in this mode, could not create it. If their Constitution did not give the Legislature the right to absolve the citizen from his allegiance to the laws, the permission or command of a majority of their constituents could not confer it upon them. In substance, the Ordinance can be nothing more than the declared will and purpose of that portion of the people; and the acts of the Legislature, the doings of their agents, under their orders, to carry them into execution. When, however, so large a number of citizens have resolved to resist the laws, and especially when they have induced their official representatives in their State, to aid them, it becomes proper to enquire into the cause of resistance, as explained by themselves.

The obnoxious laws are thus described in the Ordinance:—"The several acts and parts of acts of Congress, purporting to be laws for imposing duties and imposts on the importation of foreign commodities, and now in actual operation and effect—and more especially "An act in alteration of the several acts imposing duties on imports" approved 19th May 1828, and "An act to alter and amend the several acts imposing duties on imports," approved 14th July, 1832. This description embraces all the laws of the United States which raise a revenue from imposts and duties on importations. It would seem from some of the documents herewith communicated, that it was not intended to embrace the whole of these laws—but no exception is made in the Ordinance. The whole are included, with all contracts, promises, and obligations made under them.

These laws constitute the principal and most efficient portion of the Revenue System of the General Government, which has been in force since its establishment, and their abrogation within any State, would leave it, in such State, without the means of collecting any portion of the funds necessary for its support, for the exercise of its powers, and the performance of its multiplied obligations.

Against these laws it is alleged, that they were really intended for the protection of domestic manufactures---that the Constitution gives to Congress no authority to afford this protection---that they operate grievously and oppressively on the people of South Carolina, while they give bounties to others; and violate the equality, in this respect, which the Constitution intended to insure---and that they raise an unnecessary revenue for unauthorized objects. These objections present for consideration the *expediency* and the *constitutionality* of the laws. Their unequal operation, if it exist, does not result from any distinction being made in the amount laid upon the articles imported into different States or parts of the Union. Such distinction would be unconstitutional and has never been attempted. It must arise from the effect produced by *equal imposts* on the industry and wealth of *different sections*—and must always to a greater or less extent exist, where the duties are uniform over so large a country. The objection that too much money is raised, and that it is expended on unauthorized objects, applies to the discretion with which the power to raise the money is exercised—and calls in question not so much the laws which lay the imposts, as the laws by which the revenue, after it is in the treasury, is expended. The latter have not, as yet, been resisted and declared void.

It would be impossible, in a communication like the present, to exhibit a full view of the expediency and wisdom of the system of revenue, which while it supplies the pecuniary wants of the Government, also *aids* the *industry* of the *country*. This

can only be shown by an exhibition of its effects on the agriculture, the manufactures, and the whole commercial relations of the nation. It extends to them all, and can be properly decided only by an accurate acquaintance with the whole. It has been discussed with great earnestness for several years past; and undergone the most thorough investigation, both in the States, and in the General Government. The people of New Jersey entertain an almost unanimous opinion in its favor. They believe it to be beneficial to the interests of the whole Union, and they know it to be deeply important to themselves, and essential to their prosperity. They are not willing for temporary causes; for party considerations; or personal attachments, to weaken and destroy it. Their official representatives will be faithless to their wishes when they surrender it, for any thing short of a conviction, that it is oppressive and unjust to others or unconstitutional in its nature—a conviction which they do not yet feel. They do not, and will not, desire that others should suffer, that they may be benefited; and will yield, to kindness and argument, all that equals and associates, under the same government, ought to surrender to each other—but having seen and felt its influence on the general prosperity, they require conclusive evidence of its injustice, and demonstration of its unconstutionality before they will assist in producing the evils which must result from its overthrow. They seek equality, and will cheerfully concede to local inconveniences and hardships, where general and paramount interests are not to be sacrificed. That error may have been committed, both in the articles selected and in the amount raised, is quite possible, as it may and often is when discretion is invested in agents, public or private. The wide and varied interests of our magnificent country may not always have been clearly understood: and differences of opinion on this as on other subjects, should be treated with candor, and met with respect and consideration. The manner in which the imposts have been laid, and the amount of money raised, have received but slight opposition in New Jersey. The laws which have been passed have been regarded as wise—promoting her interests, both manufacturing and agricultural, and necessary and expedient to meet the wants of the general government. They have supported the government, paid a large amount of national debt, advanced the defences of the nation, facilitated intercourse, opened the avenues to wealth, and wrought out the unparalleled spectacle of a prosperous nation, upon whose property there is no existing claim. Yet even these results could scarcely be matter of pride if they were accomplished by laws which violated the fundamental principles of the compact which created the Government and bound the Union together. And if they now produce such a violation, they must have done so at all times—for they and the Consti-

tution are the same, now, as heretofore. And neither the wants of the government, nor the wisest expediency, can render that valid, which, without their existence, would be unauthorized.

The amount heretofore raised has been necessary and proper—that which is hereafter to be raised must depend on the wants of the government. It may doubtless be reduced; and it was on this principle that the law of 1832 was intended to lessen the revenue about seven millions of dollars. Whether this was a sufficient reduction, depended upon an examination of the wants of the government and country. It was an advance, and not a small one, towards the lowest possible estimate. It is not wise, hastily, to reduce the revenue too low. There is great and dangerous error in supposing, that little will be required after the payment of the national debt. A government extending over so immense a territory; with a population of twelve millions, and that population augmenting with unexampled rapidity; having commercial and other intercourse with the whole civilized world, and causes of constant difficulty on all her borders, cannot be administered without large means; and no greater folly can be exhibited than to act as if its expenses can be estimated at their precise and nett amount, and to reduce the revenue to such an estimate. It is neither wise nor republican. It will create inconvenience and injury to our institutions. Even the last year has shown causes of necessary expenditure, which were unanticipated, to a very large amount. Whether there may not be a greater reduction, is certainly not a fit subject for resisting the laws. True wisdom will be found neither in squandering expenditure nor narrow parsimony—and our treasury is not yet overflowing, nor, at this moment, in danger from plethora. The Government has not yet money to spare, so that it may hastily diminish its sources of income.

The unconstitutionality of the laws, by which the system is created, is supposed to be proved by two allegations. 1. That the motive for passing them was the protection of manufactures. 2. That this motive, and the consequent action, are unauthorized—and it is the right of giving this protection which the nation is now called upon to disavow, under the threat of secession.

It must be observed that these laws embrace imposts, some of which benefit agriculture, and others which can have no active agency in encouraging manufactures. The whole are not therefore justly subject to complaint on this point; and the propriety of their total nullification for an alleged cause which applies only to a part, is at least questionable. But the distinct admission that some of the imposts are designed and do produce the effect of protecting manufactures, does not impeach their validity or wisdom. The power to lay them is unrestrained by the words of the Constitution. The motive and object are not

prescribed and limited. They are left to the intelligence which understands the wants of the treasury, and the fidelity of Congress under the control of the people.

This power and right of protection are essential to the very nature and existence of government. They do not apply to the encouragement and support of one *internal* interest, property or employment against another; but against similar interests in other countries, which without counteraction, might prevent their growth or depress and destroy them. Nor do they affect one interest or one class of the community—but every interest and every class. If they do not exist, so that they may be applied to manufactures, they do not exist so that they may be used to protect agriculture and commerce. The denial to the government of the power to protect manufactnres, is a denial of its power to protect any and all the interests of the country, and gives to other nations full and uncontrolled permission to regulate their intercourse with us in such way as to humiliate and destroy us. For it will be remembered, that the protection can only be efficiently given by imposts on the commerce and importations from other countries, which operate unfavorably to us; and that these imposts must be laid by the General Government, and by it alone. The States solemnly renounced the right to do it. The Constitution is so written---the bond has this condition. And if the General Government may not perform this act, the American people have exhibited before the world the superlative folly of creating a complicated system, which leaves them without the capacity to defend themselves from injustice, and degrades them into tributaries and colonists to the most petty commercial nation, whenever it pleases to exercise its undoubted right to regulate its commerce with that view. And let it not be forgotten that this power of protection once renounced, as to manufactures, is renounced as to every other interest; and forever. It cannot be resumed, without a change of the Government. Should Great Britain, hereafter, seeking the advancement of her own colonies, and of those countries with which her commercial intercourse is most intimate, lay upon the cotton of the United States an impost of ten or twenty cents per pound, so as absolutely to prohibit its introduction into her dominions, we are, with this renunciation, left with folded arms, to contemplate the ruin which she would spread over a considerable portion of our territory; or destroy our institutions and build wiser. If we cannot lay imposts to protect our manufactures and agriculture against the operation of her laws, she has the power to decide for us, as effectually as when we were colonies, what shall be the extent and course of all our industry. So it is with every other nation---and every possible interest of our own. In demanding the renunciation of the right of protection, South Carolina demands the renunciation

of a power which has heretofore been used for her benefit, and without which the government neither can nor ought to exist. The condition which she prescribes is impossible—at least I believe it impossible so far as the consent of this State has influence. The people of New Jersey may agree to lessen the imposts—to give a less protection to manufactures or any other interest as they may find it wise or expedient; but it cannot be accompanied by a surrender of the power to restore that which at present exists, or even a greater, should circumstances and the interests of the country require it.

In taking this position it is not believed that any violation of the words, or spirit of the Constitution is proposed—nor any disregard of the intention of those who formed it, or of the early legislation under it. One of the strongest motives for the formation of the government arose from the manner in which the States were using the power in question to the injury of each other, and from the desire that it should be exercised by the whole, for the benefit of the whole. A Delegate from New Jersey made the first efficient proposition on the subject, in the Congress of the Confederation in 1781; and the strong conviction of New Jersey upon the subject, induced her to be one of the first who sent their delegates to Annapolis, to devise a remedy for the existing system, and one of the most unanimous in adopting the Constitution by which she understood this power to be conferred on the General Government, and she has uniformly concurred, as for a long time did South Carolina and the other States, in the laws which were professedly enacted to carry the power into effect. The very first act of Congress after the one prescribing oaths for public officers, was "An act for laying a duty on goods, wares, and merchandize, imported into the United States," which was approved on the *4th day of July*, 1789, the commencement of which is in the following words—"Whereas it is necessary, for the support of government, for the discharge of the debts of the United States, *and the encouragement and protection of manufactures*, that duties be laid on goods, wares, and merchandize imported. If this contested power did not exist, how could those, some of whom had been members of the Convention which formed the Constitution, and all had taken an active part in its adoption, pass this act, and avow the *motive?*

In the next year the first Secretary of the Treasury, acting under the authority and sanction of General Washington, presented a report, in which this power is not only considered as unquestioned, but the exercise of it urged with unusual ability, as the truest and best policy of the nation—and that the revenue should be raised from such imposts as would most surely protect, promote and encourage manufactures. It is true that the amount which he advised to be laid, was less than that which has since been imposed; but this

does not affect the right to lay it for that object and with that motive—amount is a question of time, circumstances and expediency; right and power are questions of constitutional construction. The former may constantly vary with the situation of the country—the latter, never. If it existed then, it must exist now, and continue to exist until the Constitution is changed. In the years 1789 and 1790, the dates of this law and this report, no objection was made, either to the existence of the power or the mode of its exercise, nor during the thirty succeeding years, although it was called into action in numerous instances. The extent to which it should be carried, was on various occasions contested, by different portions of the nation, and the necessity of the revenue to be raised by it, disputed—but the want of authority had not been then discovered. Recent ingenuity claims the merit of inventing both the fact and the argument to support it.

Subsequent to the close of the war of 1812, a new tariff of duties was created, which was designed to meet both the revenue wants of the Government and the claims which manufactures were admitted to have to protection—and neither the claim of the protected, nor the power of the protector was denied. It was regarded as a question of policy, and a gradual diminution in respect to some of the items was anticipated, under the belief that it might take place consistently with the just claims of those who had ventured their property in manufactures, under the countenance of the Government and in conformity with the popular wish. If the right to give this protection did not exist in the constitution, there was a disregard of duty in those who passed that law. The wants of any class of citizens cannot create constitutional authority. The gradual reduction which was to take place was no apology for the assumption of illegitimate power. Those who sustained it, with the avowed purpose of relieving manufactures, either knowingly violated the constitution, or they believed that the right of protection existed in the Government—and among them were the representatives from the State which now denies, and seeks, from us, a disavowal of, this right. The course of legislation was not merely the natural result, it was the almost necessary consequence of our position. The Government had to bear its own expenses and to pay a heavy debt. It had three sources of revenue. The public lands; which were too slow and inefficient for the exigency—direct taxation; which was offensive to the great mass of the community; and indirect taxation by imposts on commerce; which not only enabled it to defend us against the commercial regulations of other countries, and protect our own industry, but most speedily to meet its obligations. The last was chosen with great unanimity. When the imposts were laid, it had to choose between two kinds or species of articles—one, those which were not produced or man-

ufactured in our country—the other, those which were. It might have chosen either. It chose both; and with a view, distinctly avowed, to encourage, support and increase those which were produced and manufactured within ourselves. The object was not rebuked by those who best understood our institutions and interests, but met universal acquiescence. The spirit and objects of the first imposts have been continued. Whether, as South Carolina complains, the motive of protection has been carried too far, is matter of opinion for the decision of the majority. It is more than intimated by the President of the United States, that on this point he concurs with her; and there is danger that his influence will be exerted to produce a reduction below the measure which prudence and regard for the interests of the Government dictate; and which will affect us not less injuriously than the people of South Carolina complain that they are affected by the existing duties—and be the more afflicting, because our interests have arisen under the sanction of laws, whose validity was not questioned at their original enactment; their alleged grievances have been created by laws, the principles of which they advocated and supported. And however we may be disposed to yield all that may be justly asked at our hands, I cannot persuade myself that we shall be induced, by any influence or personal attachments, to sacrifice our great and essential interests. Whenever it shall be decided by the majority of the people of the United States, that it is wise and for the general prosperity to overthrow those interests, we shall meet the consequences in that spirit which holds the will of the Union, constitutionally expressed, to be the paramount law, and is prepared to discharge all the obligations which that will, so expressed, may demand.

It has been proposed that the reduction shall be made with reference to all manufactures, except such as are necessary and useful for national defence and war. It will not be an easy task to designate the articles which are to be excepted by this rule. It will be less easy to find a constitutional authority for their protection, after a renunciation of this authority, as to others, shall have been made.

It is against this system of revenue laws, that South Carolina proposes the remedy of nullification. Her Ordinance declares them "null, void, and no laws, nor binding upon the State, its officers, or citizens; and that all promises, contracts, and obligations made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts; and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void." To ensure the nullification thus pronounced, it is declared unlawful for either the State Courts, or those of the United

States, to enforce the payment of duties under those laws; the Legislature and all constituted authorities, and all persons within the State, are commanded to prevent the enforcement and operation of them after the first of February next; all appeals from the State tribunals to the Supreme Court of the United States, are forbidden, as are all copies of records for the purpose of appeal in cases where the Ordinance, the acts of the Legislature in relation to it, or those laws themselves, come in question. All State officers, civil and military, and jurors, are required to take an oath to support the Ordinance—the offices of such as will not take this oath are vacated, and they are disqualified from holding office or being jurors. It is also proclaimed that any act of the General Government to coerce, in any mode, that State into obedience to those laws, will be regarded as a dissolution of the connexion between that and the others—and twelve thousand men are proposed to be provided, to enforce the Ordinance, and resist any attempt on the part of the General Government.

It is due to the majority of the people of one of the states, and to their official agents, that their motives and conduct should be treated with respect—but it is due also, to the love we bear to the Union, and the allegiance which we owe to its institutions, that the true character of acts which disregard and endanger both, should be distinctly designated and firmly resisted. And this appears to be a solemn duty on this occasion. The provisions which have been recited are utterly repugnant to the spirit and existence of all our institutions; and to the rights and privileges, under them, of the minority of the people of that state. Their enforcement, would, of itself, sever the Union—break the bonds of connexion between the states—and render them separate powers. That which was proposed as a peaceful remedy, leads, inevitably, in the end, to war. It was not necessary for that state to delare that attempts by the general government to execute the laws, would be regarded as dissolving the Union. Her own acts, if maintained, create that dissolution, and assume all its responsibilities. The course pursued would *seem* to demonstrate a settled purpose, not alone to obtain relief from supposed or real oppression; but to dictate the terms of submission to the whole Union, or sever themselves from connexion with it. No ground for mutual concession or compromise is left. If the general government do not repeal the laws, disavow the right to pass them—admit and repudiate the motive for their passage—and all this, at the dictation of one member of the Union, acting by a small majority of her people, there is nothing proposed or permitted but coercion on the one side and resistance on the other.

It is suggested that an alternative may be found in the call of

a general convention, to whose decision the state will submit. But in the mean time, while this process is going forward, and for an indefinite period, until the Convention shall have acted, and its decision is ratified and carried into execution by the states, the Courts of the Union are delayed and defied—the people of that state bear no share of the burdens of government—the laws are abrogated and their authority disregarded. It is difficult to admit the persuasion that any portion of the people could esteem this the proper course, while the laws are in actual existence and unrepealed; and it is deeply to be regretted that those who are dissatisfied did not make their appeal for a Convention, or use all other means within their power, before their ultimate remedy was adopted. There is a tribunal, which they aided in forming, for the express purpose of deciding upon the validity of laws, under the Constitution, and to which, upon that question, resort might have been had. And, if they are not in error, a call upon the other states, in the Constitutional mode would have obtained an amendment or declaration to correct the evil. The eleventh amendment of the Constitution is an example of this kind. It is a negation, by the States, of a power which had been supposed to be conferred, and which had been exercised in several instances.

The terms upon which the Convention of the people of South Carolina declare their willingness to repeal the Ordinance and resume their obedience to the laws, are proposed in the address to the people of the United States, and the proclamation of Governor Hayne. They are stated to be "the repeal of the obnoxious statutes—the reduction of the Tariff to the *revenue standard* and an amount of *duties substantially uniform* upon *protected* as well as *unprotected articles* sufficient to raise the *revenue* necessary to meet the demands of the government for *constitutional purposes.*" What they consider the revenue standard and the constitutional purposes, it is impossible to explain. But it is apparent that the proposition embraces the renunciation of the right of protection to manufactures; and if the laws be repealed under existing circumstances, the repeal must be founded on that renunciation—and that made in the most humiliating form, under the dictation of citizens in hostile array against the government. And after this shall have been done, the revenue standard and the Constitutional purposes will remain to be litigated, and their nature and extent prescribed.

The right claimed by South Carolina to nullify the laws, at the will of a majority of her citizens, is believed to be new in the history of the Union—new, at least, as to any high sanction from the people of the United States. Sayings and speculative opinions of respectable and patriotic men, may be found, and have been referred to, in the argument which has been made to

justify her conduct; but however we may respect them, they are far from binding the people, in a controversy like the present. No portion of the people have, at any time, by solemn act, maintained either its correctness in principle or its policy in practice. The political struggle in 1798, was accompanied, in one of the states, by a legislative report and resolutions, which sustained the right of State interposition, but it is not believed that they afford a defence of *this* claim. As they were then understood and have since been explained, they did not mean to authorize the abrogation of the laws of the Union by the fiat of a single state. And if such was their meaning, they failed to receive that adoption and authoritative sanction from the rest of the states, which was necessary to make them unerring guides in constitutional construction. It is not recollected that they were approved in more than two of the states, and even in them not without a powerful opposition. Of these two, South Carolina was not one. In New-Jersey they were not supported by any, even of those, who at that time advocated the powers of the state governments and the rights of the people, in the amplest manner. One of the chief difficulties which they had to encounter was the apprehension that from their nature and phraseology, they might mislead to the very error which is now exhibited, and, through that avenue, to a dissolution of the Government and Union.

The political change which followed that struggle, however valuable any may regard it in its consequences, is no evidence that the principles contained in that report and resolutions, were adopted by the majority of the people. Other causes led to it; and, in the opinion of the majority, justified it, without reference to those principles.

It is not intended by these remarks, to deny the right of interposition by a State, but to dissent from the manner now proposed, and to limit the extent of its exercise. A State—the people of a State, may express their opinions as individuals, or through the medium of their government. They may, and if injured they ought to appeal to their fellow citizens in other States, and the answer should be promptly given. If the Constitution be violated, they may require the correction of the evil from their fellow members. The Constitution points out this mode of procedure—and it has not yet failed of efficacy. It occasioned, in 1800, the repeal of obnoxious laws; It procured an amendment in 1798. But if the appeal is unsuccessful to accomplish their wishes—if the other States dissent from them, I know of no license, in any to disregard the will of the rest, and, by contrivance or force, compel the majority to obey their dictates.

Ingenious speculations upon the nature of our government,

upon the sources of its authority as derived from the States, as States, or from the people in their collective and aggregate capacity, may readily be made, and as readily lead into error upon this subject; but do not seem to be necessary to its proper decision. Whatever may be the source of its authority or power, the enquiry is not so much whence it was derived, but what is its extent. If conferred by the States, they are bound by their own grant; if by the higher source of all right to rule, the people themselves, they are under equal obligation to preserve it inviolate, until they shall have changed it in the mode which they have established. And within the terms of the compact there is not reserved, to any one State, or to the majority of the people of any one State, the right to set its obligation at defiance; nor was there any understanding either explicit or inferential, at the time of its formation, that this power of a part over the whole, should be exercised at pleasure. The sentiment of the proclamation of 25th September 1794, that "the government was set at defiance, when the contest was, whether a small portion of the United States should dictate to the whole Union," was perfectly congenial with the purposes and objects of those who created it. They formed one whole, which was to act by the majority; and, as if to guard against the separate action of the parts, they directed the exercise of its powers to be upon individuals and not upon the states. The confederation had conclusively shewn the destructive consequences of the action by states and upon states, and the object was, to avoid these consequences by a different process in the management of its concerns, and by operating upon the people individually and directly, without the intervention of their local authorities. It does not know those authorities in the execution of the laws. It is a government of the people—of the whole people—not a confederation—not a league for those, whether states or people, who agreed to the exercise of its specified powers, agreed to submit to them as one people—one for peace, war, foreign intercourse, and all those matters which concern the whole. If a part less than a majority, have the right to refuse this submission, why may not the smallest part?—a minority even, of one of the separate divisions?

It is not indeed the whole government of the people. Their state institutions form a part of that whole. The two united are the government. Without either, the people of any of the states would be destitute of the essential parts of all governments—and it is not very easy to comprehend the right of a part of the people of the Union to arrest the acts of the whole, any more than it is to understand the right of a part of those in a state, to arrest the acts of the State itself. Nor is there any greater temptation to error and the assumption of uncovenanted authority in the

whole, as to the general portion of their government, than in the parts, as to the local authorities and powers. The combined system is one of wisdom, for it unites freedom and safety with power, a combination more salutary than ancient or modern republics or despotisms have ever possessed—and permanent for good, if we do not speculate it away, or spurn it as a blessing too exalted for our virtues. For its preservation it is cheerfully conceded, that the rights and conduct of both the parts of our government should be watched with the jealousy of freemen. No trespass can be committed upon either without jeopardy to both. The rights of both are equally dear and precious, and the line between them should not be crossed by either. In the present instance there can be no solid pretence that the rights of the state government of South Carolina have been infringed. The dispute relates to the exercise of a power by the general government, which has been expressly denied to the local authorities; and whether that power has been abused or not—wisely or unwisely, constitutionally or unconstitutionally exercised, is for the decision of the whole, who conferred and have the right to control it. No wrong is done to the state government, as such, until a power has been exercised, which is denied to the Union, and which the State may claim. In this aspect of the question there can be no danger to liberty. The same people will not be less jealous, less virtuous, less democratic, less vigilant, in guarding the conduct of their general than their special agents. Every tie of interest and honor is equally strong upon them in both cases. They will not permit a *consolidation* of their governments or a misapplication of their respective powers, for in their separation and strict exercise, is security found—but in the unanimous language of the Convention of 1787, with Washington as its organ, they will "keep steadily in view that which appears the greatest interest of every true American, the *consolidation of our Union*, in which is involved our prosperity, felicity, safety, perhaps our national existence."

There is as little sanction for secession as for nullification, under our institutions. Indeed, when followed to their consequences, they lead to the same end. Nullification produces secession. Secession is revolution and disunion. The people of the United States agreed to form one people and one government. They neither contemplated nor enacted a law of divorce. And in determining whether we will permit a part to withdraw from the rest, we are thrown back on those original principles of human rights, about which it is in vain to speculate, under our or any other system. The actual existence of the absolute right may be admitted. It does exist. It is the right of rebellion and revolution, which may be acted upon where causes justify the action. Our Declaration of Independence teaches this doctrine. But South Carolina has not seceded from the Union—her representatives still take part in

its deliberations, and the enactment of its laws. She has only declared her ultimate purpose to secede, if her nullification be not effectual. Until that is done, she is in the Union, and the laws over her are supreme, and must be executed. She cannot be in the Union for one purpose, and out of it for another. Such an anomaly cannot be tolerated.

When she shall attempt the final act of secession, the rest of the Union must decide for themselves and for posterity, whether her career shall not be arrested—and the decision upon that question cannot be too speedily formed, however tardy may be its promulgation or enforcement. I cannot hesitate to believe, that the principles of self defence—the hopes of freedom—every earthly interest—call upon us to refuse our assent. We must look to consequences, and contemplate results. A seceding state in the heart of the Union, becomes an independent power. She becomes so, complaining of wrongs—with irritated feelings—with a view of her rights and interests which necessarily compels her to the violation of our rights—to the infraction and evasion of our laws and to the commission of hourly injuries to our interests—injuries which can be avoided and redressed only, by a resort to those arguments which enmity and power have to urge. The certain, the inevitable, consequence, will,—must be—war, subjection, ruin: Ruin to that fair system which is the object of patriot love—patriot pride—the hope of freedom, to the remotest recesses of the civilized world. For the blow which shall successfully efface one of the stars and stripes from the flag of our Union, can only be the precursor of that convulsion which shall rend that flag in pieces, and prostrate the glorious column by which it is supported.

Those who have been most active in leading the state of South Carolina into the hazard of such consequences, however pure, and honest, and patriotic we may admit them to be, have committed a great and fatal error. And we, as a part of the Union, and not as umpires and mediators between contending powers, are forced, by our position and their request, to declare what we are prepared to do for its correction, and the avoidance of the effects which are justly apprehended from it. This declaration should be made under a deep and solemn sense of our responsibilities to ourselves, our country, our children, and the cause of free institutions through coming centuries.

The Executive of the United States, in his proclamation, has promulgated his views of the principles of the government, and of his duty on this occasion. It is not necessary that we should adopt all his principles or his reasoning. We might not unanimously concur in them. But the great and controlling declaration which he has made is, that the laws of the Union are the supreme laws of the whole land, and while they stand unrepealed by the legislative power, he will obey the obligations of his oath, and execute them, against all resistance. This is the lan-

guage of duty, of office, of patriotism, of the constitution of the United States, and will find no opposition from the people of this state; but a cordial support, by all the burdens and sacrifices, which the promise it conveys may demand. It is right, however, distinctly to add, that it is the language suited to all times, and all occasions, and all parts and states of the Union; not to affect South Carolina alone, and to be forgotten elsewhere. It is the language—not of personal feeling—of party purposes—of temporary views—but of devotion to the laws and the whole laws. And although obedience may be yielded to the command which enforces them in one state, it will be reluctantly yielded, if it be not understood that the same measure is to be meted out to all; and the same construction given to the obligations of duty, whenever and wherever the laws are resisted.

Nor is it necessary to declare our approbation of the whole manner and temper of this declaration of executive purposes and views. It would be uncandid not to avow my regret, at expressions which may be regarded as personal invective, and may be used to excite passion and embody opposition.

The authority and means for executing the laws, which have been placed in the hands of Congress and the Executive, by the Constitution. Art. 1 sec. 8, and Art. 2 sec. 3.—and the acts of Congress of the 3d March 1807, and 28th Feb. 1795, are believed to be competent to the object. They contemplate both actual insurrection in arms, and such combinations as are too powerful to be suppressed by the ordinary course of judicial proceedings, and by the powers vested in the marshals; and they authorize the use of the militia, army and navy of the United States. These combinations may assume the aspect of mere popular commotion or of organized forms of government: but in the execution of the laws the Executive can look only at the individuals making the resistance, and can not enquire what are the motives or pretences of right and authority which they urge. The leader and the follower are alike citizens and bound by allegiance to the laws. The action cannot be upon states, as states. The laws must be executed against all resistance. When a government ceases to execute them, it ceases to be a government. When it yields to threats or force, and is governed by fear, it loses, forever, the power to command. It cannot even compromise, while the sword is held by resisting citizens. This lesson was taught in 1794, by those who put the government into operation, and by him especially, whose wishes and sacrifices were, always, for liberty and constitutional law.

But under a system like ours, the application of force should never be made before the actual violation. The movement should be calm. The facts contemplated by the acts of Congress should have occurred, and the exhibition of those facts made clear to the whole nation. The resisting party should have

placed itself in the wrong, not in speculation only, but in overt acts—and the movement should then be neither slow nor hesitating. And as the resistance will be to the authority of the courts, the object should be, to subject those who resist it, to their jurisdiction, and to its legitimate consequences. In such a course all will concur who love the Union; and the majesty of the laws will receive its reverence from every heart. It is earnestly to be hoped that such a course will be pursued on this occasion, which threatens to try the vigor, and test the durability of our institutions.

In closing this message, which it has been my duty to send, with the papers which I have been requested to communicate. I have only to add, that a sense of my official obligations will lead me to yield a ready obedience to all the calls which the authorities of the Union may lawfully make upon me—and that it becomes us all to implore the merciful ruler of nations and individuals, that the evils which seem to threaten our institutions, may pass by without injury to our beloved country.

SAMUEL L. SOUTHARD.